

ORIGINAL



0000167814

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

RECEIVED

AZ CORP COMMISSION

DOCKETED

DOCKET CONTROL

DOUG LITTLE – Interim Chairman

BOB STUMP

BOB BURNS

TOM FORESE

VACANT

JAN 20 2016

2016 JAN 20 AM 10 56

DOCKETED BY

KE

IN THE MATTER OF THE APPLICATION OF
LIBERTY UTILITIES (BLACK MOUNTAIN
SEWER) CORP., AN ARIZONA CORPORATION,
FOR AUTHORITY TO ISSUE EVIDENCE OF
INDEBTEDNESS IN AN AMOUNT NOT TO
EXCEED \$3,400,000.

DOCKET NO. SW-02361A-15-0206

IN THE MATTER OF THE APPLICATION OF
LIBERTY UTILITIES (BLACK MOUNTAIN
SEWER) CORP., AN ARIZONA CORPORATION,
FOR A DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANTS AND PROPERTY AND
FOR INCREASES IN ITS WASTEWATER RATES
AND CHARGES FOR UTILITY SERVICE BASED
THEREON.

DOCKET NO. SW-02361A-15-0207

PROCEDURAL ORDER

BY THE COMMISSION:

On June 22, 2015, Liberty Utilities (Black Mountain Sewer) Corp. ("Liberty") filed with the Arizona Corporation Commission ("Commission"), in Docket No. SW-02361A-15-0206, an application requesting authority from the Commission to issue evidence of indebtedness in a total amount not to exceed \$3,400,000 ("Finance Docket").

Also on June 22, 2015, Liberty filed with the Commission, in Docket No. SW-02361A-15-0207, an application requesting that the Commission establish the fair value of its plant and property used for the provision of public wastewater utility service and, based on such finding, approve permanent rates and charges for utility service designed to produce a fair return thereon using a test year ending December 31, 2014 ("Rates Docket").

On June 23, 2015, Liberty filed Motions to Consolidate in both the Finance Docket and the Rates Docket. Liberty stated that, by consolidating both proceedings, resources would be better utilized as both dockets are "inextricably linked."

On July 6, 2015, by Procedural Order, the above captioned dockets were consolidated.

1 On July 15, 2015, Liberty filed an Amendment to its Application.

2 On July 16, 2015, the Commission's Utilities Division ("Staff") issued a Letter of Sufficiency
3 stating that Liberty's rate application had met the sufficiency requirements of Arizona Administrative
4 Code ("A.A.C.") R14-2-103 and that Liberty had been classified as a Class C utility.

5 On July 17, 2015, Residential Utility Consumer Office ("RUCO") filed an Application to
6 Intervene.

7 On July 21, 2015, CP Boulders, LLC dba the Boulders Resort ("the Boulders") filed an
8 Application to Intervene.

9 On July 31, 2015, by Procedural Order, the Boulders and RUCO were granted intervention.
10 The Procedural Order also scheduled an evidentiary hearing to commence on January 12, 2016, and
11 established procedural deadlines.

12 On August 12, 2015, Staff filed a Request for Modification of Procedural Schedule ("Request")
13 stating that due to the complexity of the issues regarding rate design and plant closure, Staff required
14 additional time to process Liberty's application. Staff's Request provided a proposed procedural
15 schedule and also noted that Liberty, RUCO, and the Boulders had no objection to Staff's proposed
16 procedural schedule

17 On August 19, 2015, by Procedural Order, Staff's Request was granted and the procedural
18 schedule was modified.

19 On August 21, 2015, Liberty filed a Consent to Email Service.

20 On September 22, 2015, Liberty filed a Notice of Filing Certification of Publication and Proof
21 of Mailing.

22 On September 23, 2015, the Town of Carefree ("Town") filed an Application for Leave to
23 Intervene.

24 On October 7, 2015, by Procedural Order, the Town was granted Intervention.

25 On November 10, 2015, Staff filed a Consent to Email Service.

26 On November 16, 2015, Liberty filed a Notice of Filing Proposed Settlement Agreement
27 between parties Liberty, the Town, and the Boulders, as well as non-parties Wind P1 Mortgage
28 Borrower, L.L.C. and the Boulders Homeowners Association. The proposed settlement seeks to settle

1 issues related to litigation and potential claims arising from Decisions in Docket No. SW-02361A-08-
2 0609 and seeks to settle issues related to the relief sought by Liberty for recovery of costs due to closure
3 of the East Boulders Wastewater Treatment Plant.

4 On November 17, 2015, Staff filed a Motion for Extension of Time for Filing Testimony,
5 requesting that the remaining filing dates for testimony be extended by two weeks. The filing stated
6 that no party objected to the extension of time.

7 On November 18, 2015, by Procedural Order, Staff's Motion for Extension of Time for Filing
8 Testimony requesting that the remaining filing dates for testimony be extended by two weeks was
9 granted.

10 On November 24, 2015, the Town filed the direct testimony of Mayor Les Peterson.

11 On December 2, 2015, Staff filed the direct testimony of Crystal S. Brown and Dorothy Hains,
12 P.E.; the Boulders filed the direct testimony of Joseph Yung; and RUCO filed the direct testimony of
13 Timothy Coley and John Cassidy.

14 On December 3, 2015, Staff filed Financing and Cost of Capital Schedules to the direct
15 testimony of witness Crystal S. Brown.

16 On December 16, 2015, Staff filed the direct testimony regarding rate design and cost of service
17 of James R. Armstrong, Crystal S. Brown, and Dorothy Hains, P.E., and RUCO filed the direct
18 testimony of Timothy Coley on rate design.

19 On December 17, 2015, Liberty filed Notice of Settlement Discussions.

20 On January 6, 2016, Liberty filed the rebuttal testimony of Matthew Garlick, Greg Sorensen,
21 William R. Killeen, and Thomas J. Bourssa on rate base, income statement, rate design, and cost of
22 capital.

23 On January 15, 2016, Liberty, on behalf of all of the parties to the Docket, filed a Notice of
24 Settlement ("Notice"). The Notice indicated that all parties have reached an agreement settling all
25 disputed issues in the instant Docket and anticipated filing the executed Settlement Agreement and
26

1 supporting testimony on January 22, 2016 and January 27, 2016, respectively. The Notice requested
2 that the remaining procedural deadlines for Surrebuttal and Rejoinder testimony be suspended.

3 Liberty's request to suspend the remaining procedural deadlines is reasonable and should be
4 granted.

5 IT IS THEREFORE ORDERED that the Surrebuttal and Rejoinder testimony deadlines set
6 forth in the November 18, 2015 Procedural Order are hereby suspended.

7 IT IS FURTHER ORDERED that the **fully executed Settlement Agreement** shall be filed on
8 or before **January 22, 2016**.

9 IT IS FURTHER ORDERED that **testimony supporting the settlement** on behalf of each
10 party to the settlement shall be filed on or before **January 27, 2016 by 2:00 p.m.**

11 IT IS FURTHER ORDERED that the hearing date and pre-hearing conference date shall remain
12 February 1, 2016 and January 28, 2016, respectively.

13 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
14 Communications) applies to this proceeding and shall remain in effect until the Commission's Decision
15 in this matter is final and non-appealable.

16 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or
17 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
18 hearing.

19 DATED this 20th day of January, 2016.

20
21 
22 SASHA PATERNOSTER
ADMINISTRATIVE LAW JUDGE

23 Copies of the foregoing mailed/delivered
24 this 20th day of January, 2016 to:

25 Jay L. Shapiro
SHAPIRO LAW FIRM, P.C.
1819 E. Morten Avenue, Suite 280
26 Phoenix, AZ 85020
Attorney for Liberty Utilities
27 jay@shapslawaz.com
whitney@shapslawaz.com
28 **Consented to Service by Email**

1 Todd C. Wiley
2 LIBERTY UTILITIES
3 12725 W. Indian School Road, Suite D-101
4 Avondale, AZ 85392
5 Todd.Wiley@libertyutilities.com
6 **Consented to Service by Email**

7 Daniel W. Pozefsky
8 Chief Counsel
9 RESIDENTIAL UTILITY CONSUMER OFFICE
10 1110 W. Washington, Suite 220
11 Phoenix, AZ 85007

12 Michele L. Van Quathem
13 RYLEY CARLOCK & APPLEWHITE
14 One N. Central Ave., Suite 1200
15 Phoenix, AZ 85004-4417
16 Attorneys for CP Boulders, LLC

17 Scotts S. Wakefield
18 RIDENOUR HIENTON, PLLC
19 201 N. Central Ave., Suite 3300
20 Phoenix, AZ 85004
21 Attorneys for the Town of Carefree

22 Michael W. Wright
23 SHERMAN & HOWARD, LLC
24 7033 E. Greenway Pkwy, Suite 250
25 Scottsdale, AZ 85254
26 Attorneys for the Town of Carefree

27 Gary S. Neiss
28 Town of Carefree
100 Easy Street
PO Box 740
Carefree, AZ 85377

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007
rmitchell@azcc.gov
wvancleve@azcc.gov
Consented to Service by Email

Thomas Broderick, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

By: Rebecca Unquera
Rebecca Unquera
Assistant to Sasha Paternoster